IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32(2) (b)
Description of case

Writ Petition No. 224 of 2004 (S/B)

Date of decision: 29th July, 2004

For the approval of:

Hon'ble Chief Justice V.S. Sirpurkar.

Hon'ble Mr. Justice P.C. Verma.

- Whether the order/judgment should be sent to the reporters for reporting? ( )

- Whether the reporters be allowed to see the judgment? (Yes)

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IN THE HIGH COURT OF UTTARANCHAL, NAINITAL

Writ Petition No. 224 (S/B) of 2004

Dr. Hari Krishna Srivastava
S/o late Shri S.P.Srivastava,
Presently posted as Senior Consultant
In Base Hospital, Almora …… Petitioner

Vs

……

State of Uttaranchal and others ……. Respondents.

Sri Ramji Srivastava, Advocate, counsel for the petitioner.
Mr. N.B. Tiwari, Chief Standing Counsel, learned counsel for the respondents.

Coram: Hon. V.S.Sirpurkar, C.J.
Hon. P.C.Verma, J.
Dated: July 29, 2004

[Per Hon'ble the Chief Justice)

The challenge in the writ petition is to the order dated 22nd of November, 2003 passed by the Government of Uttaranchal through its Secretary. By that order, recovery has been ordered of the sum of Rs. 74,820/- @ Rs. 3118/- per month in instalments. Out of this amount, Rs. 15,590/- have already been recovered.

It had been the case of the State that the said amount was irregularly spent in respect of a fair called 'Sawan Jhula Mela'. An inquiry followed resulting in order for recovery. Earlier, the order of recovery was set aside by the Administrative Tribunal on the ground that there was no consultation made with the Uttaranchal Public Service Commission. It seems that now the said consultation was done and ultimately final order came to be passed vide the impugned order dated 22.11.2003. The only objection of the learned counsel for the petitioner before us is that, though this order of recovery, which tends to be a final order has been passed on 22.11.2003, there has been an order on record dated 04.12.2003, whereby the earlier orders of recovery have been cancelled. Learned counsel for the petitioner contends that it is incongruous situation and it also suggests that the State was not even aware of the earlier orders passed. These earlier orders were dated 14.07.2003 and 09.09.2002.

We are not impressed by this contention at all. It could be that after the last order of Tribunal dated 17.12.2002, the process of consultation with the Uttaranchal Public Service Commission was completed and ultimately on that basis final orders came to be passed. However, since the earlier orders of recovery were not cancelled, that exercise seems to have been done by the State on 04.12.2003. We do not see any reason to interfere. Be that as it may, it is always open for the petitioner to challenge the final order dated 22.11.2003 before State Administrative Tribunal. Keeping that aspect in mind, we do not propose to entertain the matter directly in the writ petition.

Accordingly, the writ petition is dismissed.

(V.S.Sirpurkar, C.J.)
29.7.2004

(P.C. Verma, J.)
29.7.2004

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